

# **Exhibit 21 Supplement Metellus Deposition**

Carl Metellus

Pages: 16, 17, 18, 41, 42, 50, 51, 52, 53, 54, 55, 57, 58,  
59, 60, 63, 66

Dated: December 22, 2020

Carl Metellus

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG,	:
JR., as ADMINISTRATOR of	:
the ESTATE OF CHARLES	:
JOSEPH FREITAG, SR.,	:
Plaintiff	:
	: No. 2:19-cv-05750-JMG
VS	:
	:
BUCKS COUNTY; PRIMECARE	:
MEDICAL, INC.; STEPHAN	:
BRAUTIGAM, PMHNP;	:
JESSICA MAHONEY, PSY.D;	:
AVIA JAMES, LPC;	:
CHRISTINA PENGE, LPC;	:
JOHN DOES 1-10,	:
Defendants	:

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ZOOM DEPOSITION OF CARL METELLUS

DATE AND TIME: December 22, 2020, 11:31 a.m.

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1 Q. When you heard about the suicide, did  
2 you recall having received and sent an e-mail about  
3 that same person?

4 A. I want to say by the time I heard of  
5 the suicide or at the very moment I heard it was a  
6 suicide, maybe the name wasn't attached, so maybe I  
7 didn't have no recollection that it was the same  
8 person I had to put an alert on until I came into  
9 work and, you know, put the pieces together.

10 Q. Okay. And that was on the -- well,  
11 we're assuming the Monday that followed the  
12 suicide; is that correct?

13 A. Yes.

14 Q. All right. At any point, did anyone  
15 come ask you questions?

16 By anyone, anyone from the county, any  
17 of the correctional facility investigators, any of  
18 them come ask you questions about your knowledge of  
19 Mr. Freitag and his situation prior to his suicide?

20 A. Prior to his suicide, you're asking?

21 Q. No. I asked a long question.

22 In the wake of his death, did anyone,  
23 any of the investigators come ask you questions  
24 about what you knew?

25 A. Yes, after -- after his death, I

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1 believe I was questioned by Frank Bochenek, the  
2 lead investigator.

3 Q. When did that happen?

4 A. Where? I'm sorry.

5 Q. Yeah. When did that happen?

6 A. I could not tell you for a fact.

7 Q. What specifically did Mr. Bochenek ask  
8 you about?

9 A. I believe he asked me about my e-mail.

10 Or let me rephrase that. I believe he  
11 asked me if I put the alerts on OMS and, you know,  
12 what steps I took after putting the alert in.

13 Q. Okay. We'll come back and talk about  
14 that a little bit more later, but before I do that,  
15 let me note that I think you're referring to an  
16 investigation or additional investigation that  
17 Mr. Bochenek conducted in October of 2019, about 14  
18 months after Mr. Freitag's suicide. And you'll  
19 correct me if I am wrong once we get into these  
20 documents.

21 I mention that now, though, to ask does  
22 that timeframe sound right to you, that  
23 Mr. Freitag's suicide occurred October of 2018,  
24 then there was a gap of time before Mr. Bochenek  
25 came and asked you those questions?

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1 A. Can you repeat the question?

2 Q. Sure. Do you remember a long period of  
3 time passing between the suicide and when  
4 Mr. Bochenek came and asked you questions about the  
5 watch?

6 A. I believe when he asked me to forward  
7 him the e-mail, yes, some time had passed.

8 Q. Okay. And, in fact, we don't have  
9 the -- well, I'll put the exhibit back up in front  
10 of you.

11 Showing you P-1 again, and I'm  
12 highlighting for you a date, Wednesday, October  
13 23rd, 2019, it looks like you forwarded this e-mail  
14 chain to Mr. Bochenek; is that right?

15 A. Correct.

16 Q. All right. So is it your assumption  
17 then that you would have had a conversation with  
18 Mr. Bochenek about these matters at some point in  
19 that timeframe?

20 A. Yes.

21 Q. Okay, thank you.

22 Since that time, since you spoke to  
23 Mr. Bochenek in October of 2019, have you had  
24 occasion to speak to anybody about Mr. Freitag --

25 A. No.

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1 manager supervisor, did you have documents like  
2 this available to you, either electronically or in  
3 a binder somewhere?

4 A. Yes.

5 Q. All right. Let's see.

6 There's some text that's highlighted  
7 here in the middle of the page. I'm running my  
8 curser over it now.

9 Do you see that, sir?

10 A. Yes, I do.

11 Q. The text that I'll read into the record  
12 is as follows: Suicidal behavior is more likely at  
13 critical periods of time, including commitment,  
14 which I assume is the first admission to the  
15 facility, right?

16 A. Yes.

17 Q. It continues, and the first several  
18 days thereafter, court hearings, sentencing, new  
19 criminal charges, after adjudication, and the  
20 sentence continues.

21 I take it, are these principles  
22 familiar to you, sir?

23 A. Yes.

24 Q. Something like this happens, you're  
25 newly admitted to the jail, you have a hearing, you

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1 have a sentencing, the risk for suicide is, in  
2 general, more likely to be present; is that  
3 correct?

4 A. Yes.

5 Q. So my question is, now with this  
6 principle in mind, are there any procedures in  
7 place that you're aware of to specifically address  
8 the increased risk of suicide after a sentencing?

9 A. I believe that's why that e-mail was  
10 generated, to notify the administrators that this  
11 offender received a six to 12-year sentence.

12 Q. Okay. So, again, that's helpful, to my  
13 understanding.

14 Would it be accurate then to say that  
15 this is an ad hoc procedure, meaning that it's  
16 decided on a case-by-case basis how these decisions  
17 get made?

18 A. Yes.

19 Q. Okay. Let me show you one other  
20 document. It's gonna take me a minute to put this  
21 in front of you.

22 This will be Exhibit P-16.

23 All right. Do you see a document in  
24 front of you that says PrimeCare Medical,  
25 Incorporated mortality review?

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1 A. Yes.

2 Q. Who is John Valiant?

3 A. Case manager.

4 Q. Okay. And who is Breanne Morrow?

5 A. Case manager.

6 Q. Do you have any idea why the two of  
7 them were on that e-mail?

8 A. I know why Morrow -- Morrow is on the  
9 e-mail because she is the 4:00 to 12:00 case  
10 manager in reception port.

11 Q. I see. So she would have been working  
12 at that time; is that right?

13 A. She would have just been coming in,  
14 correct.

15 Q. Okay. And how about Valiant, do you  
16 have any idea why he was on the e-mail?

17 A. I don't remember.

18 Q. Okay.

19 A. I didn't send the e-mail, but I don't  
20 remember why his name was on it.

21 Q. I see. All right. So deputy warden's  
22 e-mail says, unlock, my sure he's on a watch.

23 Maybe there's a typo there, but why  
24 don't you tell me how you understood that e-mail  
25 when you received it?

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1           A.       The way I received it was, unlocked, he  
2       would not be placed on any administrative lock, and  
3       to make sure he is on an observation watch.

4           Q.       Okay. What does it mean to be unlocked  
5       versus locked?

6           A.       It means if you're locked, then you  
7       would be restricted.

8           Q.       I apologize, sorry. I missed that.  
9       Could you repeat that?

10          A.       If they were locked, they'd be  
11       restricted.

12          Q.       Okay. Is -- when we're talking about  
13       levels of suicide precautions, is there a  
14       difference between unlocked status versus locked  
15       status, if you know?

16          A.       Yes.

17          Q.       Okay. Describe that to me.

18          A.       If they were on a Level 2 or Level 1  
19       suicide watch, they would be restricted. They  
20       would be locked.

21          Q.       Okay. Meaning when the -- when  
22       prisoners have access to the day room in their  
23       housing area, that person is locked in their cell;  
24       is that correct?

25          A.       Correct.

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1 Q. Would people who are on locked status  
2 be moved to a specific unit within the prison?

3 A. It depends what -- what locked status  
4 they were going onto.

5 Q. Okay. Well, and what I'm getting at  
6 with that question is, let's say you're put on  
7 Level 2 and you're in one of the regular, general  
8 population housing units.

9 A. I'm sorry. I cut you off. There's  
10 construction going on behind me, and I cannot hear  
11 you at all.

12 Q. Okay, sure. Can you hear now, sir?

13 A. Yes, I'm sorry.

14 Q. Okay. Let me try that question again.  
15 If you're being placed on Level 2  
16 status and you're in a cell in a general population  
17 housing area, first, Level 2 would mean you're  
18 going to be locked in your cell; is that correct?

19 A. Correct.

20 Q. Would you be moved to a different  
21 housing area?

22 A. It depends.

23 Q. Okay. What does it depend on?

24 A. It depends on what housing unit you are  
25 on at the time and whether there was availability

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1 on another housing unit.

2 Q. Okay. And what factors about the  
3 housing unit would impact the need to move, if any?

4 A. Well, if the offender was already on  
5 the housing unit that could accommodate a Level 2,  
6 then they would remain.

7 Q. Okay.

8 A. If they -- yeah, exactly.

9 Q. And what is it about the housing area  
10 that would be necessary to accommodate a Level 2?

11 A. In a perfect world, you would have them  
12 in a single cell that is just for one offender, but  
13 if space is not available so as to house that  
14 person in a single cell, then they'd remain in a  
15 double cell at times.

16 Q. Okay. All right. Now, so that's the  
17 phrase that Mr. Mitchell or Deputy Warden Mitchell  
18 used, unlock.

19 When he said make sure he's on a watch,  
20 how did you interpret that?

21 A. Well, he said my sure he's on a watch.

22 Q. Right.

23 A. But I interpreted it as make sure he's  
24 on a watch.

25 Q. Got it. And that was -- that's your

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1 interpretation of what he said.

2 You're interpreting "my" as a typo and  
3 that he meant to say "make;" is that correct?

4 A. Correct.

5 Q. All right. When -- so assuming that  
6 Deputy Mitchell -- Warden Mitchell said, make sure  
7 he's on a watch, what did that mean to you in terms  
8 of level of watch?

9 A. Make sure he is at a minimum of a Level  
10 3 regular watch mental health.

11 Q. Okay. Now, Deputy Warden Mitchell did  
12 not say Level 3.

13 Did you draw that conclusion based on  
14 your understanding of the procedures that were  
15 available?

16 A. I drew that conclusion because it said  
17 unlock.

18 Q. Got it, thank you. Okay. So unlock  
19 and on a watch means it can't be Level 2 because  
20 Level 2 would be locked; is that correct?

21 A. Correct.

22 Q. All right, thank you. Do you have any  
23 idea how Deputy Warden Mitchell made the decision  
24 that this was the level of precaution that should  
25 be instituted?

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1 A. No, I do not.

2 Q. Okay. Did you ever talk to him about  
3 that? And when I say ever, I'm talking about at  
4 any time on August 24th or anytime from August 24th  
5 until today?

6 A. No, I did not.

7 Q. All right. And I take it if the deputy  
8 warden gives you a directive, you follow his  
9 directive; is that right?

10 A. Correct.

11 Q. Got it. Now, you don't report directly  
12 to him. Instead, you report to Assistant Warden  
13 Budd.

14 But in the hierarchy, Deputy Warden  
15 Mitchell is in a position to give you a directive;  
16 is that correct?

17 A. Correct.

18 Q. Did you have any reason at that time to  
19 question the level of watch that Deputy Warden  
20 Mitchell instructed you to place?

21 A. No.

22 Q. Thank you, sir. All right. Now, so  
23 you got that e-mail from him or I assume up got  
24 that e-mail sometime between 3:55 and 4:11, and  
25 then I have highlighted the text that you described

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1 the actions you took here in your e-mail.

2 Do you see what I've highlighted?

3 A. Yes, sir.

4 Q. All right. Let's make sure we  
5 understand what you've said.

6 What does it mean to say that you maxed  
7 him, m-a-x-e-d?

8 A. Changed his custody level.

9 Q. Okay. And tell me more about that.

10 What -- what does that mean -- what is his custody  
11 level?

12 A. His custody level at the time, I  
13 believe, was a medium custody.

14 He was changed to max custody A due to  
15 the state sentence.

16 Q. Okay. Max custody, what was the phrase  
17 you used after max custody?

18 A. I'm sorry. A is how it's noted in the  
19 OMS system.

20 Q. Okay. Letter A, the capital --

21 A. Letter A is correct.

22 Q. Okay. What does that mean in terms of  
23 Mr. Freitag's experience in the prison or his  
24 housing area?

25 A. Explain to me, what does what mean?

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1           Q.        Sure. Well, let me ask it this way:  
2       So my understanding from having taken however many  
3       depositions of prison officials concerning  
4       classification is your security classification will  
5       affect what privileges you have access to, will  
6       affect where you can be housed, will affect, you  
7       know, visitation hours and so on.

8                   Can you tell me, Mr. Freitag going from  
9       medium to maximum, what changes would have been --  
10      would he have experienced or had taken place?

11          A.        There's certain restrictions, so, yes,  
12       he wouldn't be able to -- he would not be able to  
13       work off the module. He'd be excluded from certain  
14       programming.

15          Q.        Okay. Any changes in his cell or the  
16       housing unit where he was located?

17          A.        No.

18          Q.        The Level 3 alert that you added, am I  
19       correct that that is the instruction you got from  
20       Deputy Warden Mitchell?

21          A.        Yes.

22          Q.        All right. So basically what you did  
23       when you heard or received notification, unlock,  
24       make sure he's on a watch, to you that means a  
25       Level 3; is that correct?

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1 A. Yes.

2 Q. All right. So then you put that  
3 notification in the OMS system; is that correct?

4 A. Correct.

5 Q. All right. Then you say in this  
6 e-mail, could you notify the module of the capital  
7 R capital W. What does that mean?

8 A. That means to notify the module  
9 officers of the regular watch.

10 Q. Okay. Is regular watch the same way of  
11 saying Level 3?

12 A. Yes.

13 Q. All right. Meaning a 30-minute watch  
14 by the officers; is that correct?

15 A. 30-minute watch by the officers,  
16 15-minute watch by the offender, the watcher.

17 Q. That's the inmate monitor; is that  
18 correct?

19 A. Yes.

20 Q. And we'll come back to that in a  
21 minute.

22 The e-mail, by the way, I neglected to  
23 ask you at the beginning, was sent to Breanne  
24 Morrow. And that is -- she is the 4:00 to 12:00  
25 case manager?

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1 A. Correct.

2 Q. Okay. And what did you expect to  
3 happen after you sent that e-mail to Breanne  
4 Morrow?

5 A. I expected her to phone the module  
6 officer to alert them of the regular watch that was  
7 placed on Freitag.

8 Q. Do you know whether she did that?

9 A. No, I do not.

10 Q. Do you -- in a situation like this, do  
11 you ever follow up and ask the case manager under  
12 your supervision whether they did what you've asked  
13 them to do?

14 A. Not unless there was a reason for me  
15 to.

16 Q. Okay. Was there any reason for you to  
17 follow up with Breanne Morrow?

18 A. Not that I could recall.

19 Q. All right. Did you remember Breanne  
20 Morrow writing or contacting you back and saying  
21 that she was unable to do so or that she did, in  
22 fact, do so or anything like that?

23 A. I don't have any correspondence stating  
24 that fact.

25 Q. Okay. And I think you don't recall

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1 having any correspondence about that?

2 A. No.

3 Q. Okay. Do you -- and given that this  
4 e-mail chain was sent to Mr. Bochenek on October  
5 23rd of 2019, do I understand correctly that there  
6 were no further e-mails on this chain after you  
7 sent the e-mail to Breanne Morrow on the afternoon  
8 of August 24th?

9 A. Right. There was no further  
10 correspondence of mine.

11 Q. Okay. Do you know whether anyone spoke  
12 to Mr. Freitag about the decision to place him on  
13 watch?

14 In other words, were you present for  
15 any conversations or did you hear about any  
16 conversations?

17 A. No, I was not present for any  
18 conversations.

19 Q. I'm sorry. Could you say that again?

20 A. No, I was not present for any  
21 conversation.

22 Q. Did you ever hear of any conversations?

23 A. No.

24 Q. Do you recall hearing any conversations  
25 or being a part of any conversations or hearing any

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1 Q. Okay. Two watches by the officer and  
2 four watches by the inmate monitors; is that  
3 correct?

4 A. That's correct.

5 Q. And I assume -- and have you placed  
6 people on Level 3 alerts before?

7 A. Yes, I have.

8 Q. All right. Here you did it at the  
9 instruction of Deputy Warden Mitchell; is that  
10 correct?

11 A. Correct.

12 Q. But when you've done it in the past,  
13 you've done so and you've assumed that there will  
14 be six watches taking place every hour; is that  
15 correct?

16 A. Correct.

17 Q. And in your experience, can I assume  
18 that when you put someone on a Level 3 watch, you  
19 do that because you believe that six watches per  
20 hour is necessary to properly protect the person;  
21 is that correct?

22 A. Correct.

23 Q. When you put someone on a watch, is  
24 there ever any follow-up with the module officers  
25 by you to make sure that it gets done?

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1                   Anything like that ever happen?

2                   A.       Not that I can remember.

3                   Q.       Yeah. And would that be your  
4 responsibility anyway?

5                   A.       Would it be my responsibility?

6                   Q.       Yes.

7                   A.       If I know I did not contact them to  
8 begin with, then yes, it would have been my  
9 responsibility.

10                  Q.       Okay. It sounds like what you're  
11 saying then is that if -- once the officers are  
12 alerted to the fact that there's a watch in place,  
13 it's their responsibility, it's their job  
14 responsibility to comply with that watch; is that  
15 correct?

16                  A.       Correct.

17                  Q.       Which means in the terms of  
18 Mr. Freitag, it would be their responsibility to  
19 make sure they, the officers, are looking in his  
20 cell twice every hour; is that correct?

21                  A.       Correct.

22                  Q.       And it would be their responsibility to  
23 make sure the inmate monitors are looking in the  
24 cell four times an hour; is that correct?

25                  A.       Correct.